

### REMARKS

Reconsideration of this application is respectfully requested in view of the foregoing amendment and the following remarks.

Claims 1-32 were pending in this application. This Amendment cancels claims 3-5, 9-11, 13-20, and 22-32, amends claims 1, 7, 8, 12, and 21, and adds new claims 33-42. Accordingly, claims 1, 2, 6-8, 12, 21, and 33-42 will be pending upon entry of this Amendment.

In the Office Action mailed January 16, 2003, the Examiner rejected claims 1-32 under 35 U.S.C. §103(a) as being unpatentable over a single reference, U.S. Patent No. 6,127,928 to Issacman et al. ("Issacman"). To the extent this rejection might still be applied to the new and amended claims presently pending in this application, it is respectfully traversed as set forth below.

Applicants have amended claims 1 and 8 to recite the selective reading of adjacent merchandise. Specifically, amended claims 1 and 8 recite the association of data read by a reader with a first collection of merchandise but not with a second collection of merchandise. This association enables the present invention to distinguish between the RFID tags of merchandise placed on the same fixture. In other words, the present invention accounts for certain tags on the fixture, while ignoring other tags. Support for these amendments can be found in the specification at, for example, paragraphs [0077 - 0080].

As detailed in paragraphs [0011 - 0013] of the specification, various forms of RFID technology can be used by those skilled in the art to configure readers and a host computer to achieve desired functionalities. For example, to associate information read by a reader with a

collection of merchandise associated with that reader, but not other collections, the reader could be configured to interrogate and read its associated collections, but not other collections. (*See, e.g.,* specification paragraph [0077]). Alternatively, the data read by multiple adjacent readers could be analyzed to identify duplicate entries, with the nearest reader determined by signal strength, for example. Other arrangements would also be known to those skilled in the art.

Applicants respectfully submit that Issacman fails to teach or suggest a system adapted to selectively read adjacent merchandise. In fact, Issacman suggests that a reader (or local transceiver, as Issacman refers to it) is capable of interrogating any RFID tag within its range. As disclosed in the background of Issacman, a local transceiver transmits an RF signal to a plurality of tags. The RF signal includes a unique identification number. The RF signal excites the tags within its range. A particular tag that is within the transmitted range and has the unique identification number responds by modulating the frequency of the RF signal. The local transceiver detects this modulated frequency to identify the tag. The identification and location of the excited tag are determined based on the identification of the local transceiver by the host transceiver. (Column 3, line 46 to column 4, line 8).

Based on this description, Issacman suggests that a local transceiver reads any tag *within its range*. Thus, it is quite possible that two different adjacent local transceivers could excite the same tag if that tag is within range of both of the local transceivers. Indeed, in describing his invention, Issacman anticipates this possibility by separately activating the local exciters when searching for a specific tag. (Column 7, lines 56-65). In this manner, the system of Issacman can sequentially activate the local exciters until the host transceiver receives a transmission from

the particular excited tag. The host transceiver then determines the location of the excited tag based on the identification of the local exciter that was activated.

In contrast to Issacman, as recited in amended claims 1 and 8, the present invention associates data read by a reader with its specific collection of merchandise, and not with other collections that may be within range of the readers. (*See, e.g.*, Figure 6 of the present application and its related description). In this manner, the present invention is uniquely suited for distinguishing between items and collections of items stored adjacent to each other on the same fixture, such as garments stacked on a store shelf. Indeed, with this selective reading, the system of the present invention can determine in which specific collection of merchandise (*e.g.*, stack of garments) a particular item can be found.

Thus, Applicants respectfully submit that amended claim 1 (and its dependent claims 2, 6, and 7) and amended claim 8 (and its dependent claim 12) are distinguishable over Issacman.

Regarding amended claim 21 and new claims 33-42, Applicants respectfully submit that Issacman neither teaches nor suggests, even when combined with the knowledge of one skilled in the art, the use of RFID tagging to solve specific problems associated with the supply chain of a retail organization. Instead, Issacman focuses primarily on document management, with only peripheral references to, for example, parcels or inventory in warehouses, and without mention of specific problems of supply chain management.

With regard to amended claim 21, Issacman fails to teach or suggest the determination of discrepancies between RFID tagged items scanned before delivery to poolers and RFID tagged items scanned during store delivery. Indeed, this novel use of RFID tagging provides valuable

protection against freight losses. Support for the amendments to claim 21 can be found at, for example, specification paragraphs [0017] and [0070].

Regarding new claims 33 and 34, Issacman fails to teach or suggest the comparison of RFID tagged items in a backroom of a retail store with those on the sales floor of the retail store, for determining items that need to be moved to the sales floor and items that need to be ordered. This novel use of RFID tagging greatly improves stock management within a retail store. Support for new claims 33 and 34 can be found at, for example, specification paragraphs [0023], [0072], and [0080].

Regarding new claims 35 and 36, Issacman fails to teach or suggest the scanning of RFID tagged garments that are taken to a fitting room, and the compilation of style information and information on the locations at which the garments are displayed on the sales floor. Moreover, regarding claim 37, Issacman fails to teach or suggest the comparison of RFID tagged garments that are taken to the fitting room with those that are purchased. This novel use of RFID tagging, *i.e.*, in the context of fitting room traffic, captures consumer data that, in the prior art, has been nearly impossible to track. In so doing, the present invention provides retail stores with invaluable sales and marketing data. Support for new claims 35-37 can be found at, for example, specification paragraphs [0028] and [0083].

Regarding new claims 38-42, Issacman fails to teach or suggest the use of writeable RFID tags to implement pricing adjustments in the middle of the supply chain. Indeed, this novel use of RFID tagging greatly simplifies pricing adjustments and improves the efficiency of

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special handling activities. Support for new claims 38-42 can be found at, for example, specification paragraph [0054].

Applicants therefore respectfully submit that amended claim 21 and new claims 33-42 are patentable over Issacman and are in condition for allowance.

In view of the foregoing, all of the claims in this case are believed to be in condition for allowance. Should the Examiner have any questions or determine that any further action is desirable to place this application in even better condition for issue, the Examiner is encouraged to telephone applicants' undersigned representative at the number listed below.

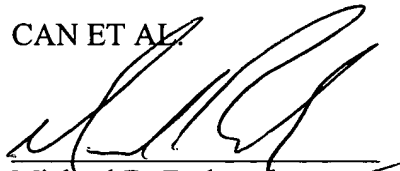
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Attachments: Amended Claims w/ Markings

MDB/SPA/cja

**VERSION WITH MARKINGS TO SHOW CHANGES MADE TO CLAIMS**

1. (Amended) A system for determining inventory comprising:

a fixture [including a first region and] adapted to hold a first collection of merchandise  
and a second collection of merchandise,

the first collection of merchandise comprising at least one item with an associated  
first radio frequency identification (RFID) tag, and  
the second collection of merchandise comprising at least one item with an  
associated second RFID tag;

a first reader disposed on the fixture and proximate the first collection of merchandise,  
[and] wherein the first reader is adapted to interrogate the first RFID tag and retrieve information  
related to the first RFID tag; and

a second reader disposed on the fixture and proximate the second collection of  
merchandise, and wherein the second reader is adapted to interrogate the second RFID tag and  
retrieve information related to the second RFID tag,

wherein the system is adapted to associate data retrieved by the first reader with the first  
collection of merchandise but not the second collection of merchandise, and

wherein the system is adapted to associate data retrieved by the second reader with the  
second collection of merchandise but not the first collection of merchandise.

7. (Amended) The system according to claim 1, wherein the [fixture] system is capable of  
sensing whether the at least one items [is] are properly located on the fixture.

8. (Amended) A method for determining inventory comprising [the steps of]:

[(a)] associating a first radio frequency identification (RFID) tag with a first item of merchandise;

[(b)] placing the first item [proximate] at a first location of a fixture;

[(c)] placing [a first] an RFID reader proximate the first location of the fixture; [and]

[(d)] interrogating the first RFID tag associated with the first item with the RFID reader;

associating a second RFID tag with a second item of merchandise;

placing the second item at the first location;

associating a third RFID tag with a third item of merchandise;

placing the third item at a second location of the fixture; and

associating data read by the RFID reader with at least one tag in the first location but not with the third RFID tag.

12. (Amended) The method according to claim [10] 8, further comprising placing a second RFID reader proximate the second location and associating data read by the second RFID reader with at least one RFID tag in the second location but not with [wherein] the first [reader interrogates at least one] RFID tag and the second RFID tag in the first location [but does not interrogate the third RFID tag].

21. (Amended) A method for using radio frequency identification (RFID) in retail operations, the method comprising [the steps of]:

associating an RFID tag with each item to be tracked;

placing a plurality of tag readers at locations throughout the supply chain; [and]

providing at least one host computer for receiving and processing information from the tag readers and interfacing with at least one of: inventory, operations and logistics systems;

scanning the RFID tagged items before delivering to poolers;

scanning the RFID tagged items during store delivery; and

determining discrepancies between the scans to support documentation of freight losses.